

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ORIN KRISTICH,

Petitioner,

v.

Civ. No. 22-cv-569 WJ-KRS

UNITED STATES OF AMERICA,

Respondent.

**ORDER FINDING MOOT MOTION FOR CLARIFICATION
AND MOTION FOR EXTENSION**

THIS MATTER is before the Court on Petitioner Orin Kristich's Motion for Clarification, (Doc. 21), and Motion for Extension, (Doc. 24). Having reviewed the Motions, record of the case, and relevant law, the Court finds the Motions are moot.

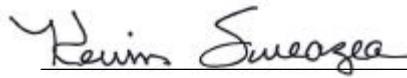
Petitioner challenges his federal convictions under 28 U.S.C. § 2255 based on, *inter alia*, ineffective assistance of counsel and due process deprivations. (Doc. 17) (Amended Petition). The Court reviewed Petitioner's allegations pursuant to Habeas Corpus Rule 4 and ordered the United States to respond to the Amended Petition. (Doc. 18). The United States filed its response on August 31, 2023. (Doc. 33). Petitioner's reply was due January 19, 2024, but has not been filed. *See* (Docs. 35, 38) (Orders granting Petitioner's motions for extension to file reply brief).

In his Motion for Clarification, Petitioner asks the Court to clarify its Order to Answer, (Doc. 18), and Order of Reference, (Doc. 19). Petitioner asks the Court to mark its mailings to him "Legal Mail/Open in the presence of the inmate" to ensure he timely receives filings in this case. (Doc. 21) at 1-2. He also asks the Court "to clarify the number of days he has to make counter-claims or cross-claims to the governments [sic] response as ordered by the magistrate in

this case.” *Id.* at 2. A review of the record shows that Petitioner has received the United States’ response to his Amended Petition and has requested two extensions of time to file a reply brief, which the Court granted. *See* (Docs. 34, 35, 37, 38). The Court’s docket reflects that all filings in this case have been mailed to Petitioner’s address of record, and that Petitioner’s notices of changes of address have been received by the Court. The record is clear as to when Petitioner’s reply brief is due, and as to the number of days Petitioner will have to file objections to proposed findings filed by the Court. Accordingly, the Court finds the Motion for Clarification is moot.

In his Motion for Extension, filed June 5, 2023, Petitioner states that he is unable to access the law library due to a lockdown and asks for “a 90 day extension on any response that he may need to file for the length of the lockdown.” (Doc. 24) at 1. After Petitioner filed the Motion for Extension, the United States filed its response to the Amended Petition and Petitioner obtained two extensions to file a reply. *See* (Docs. 33, 35, 38). Therefore, the Court finds the Motion for Extension is also moot.

IT IS THEREFORE ORDERED, for the reasons stated above, that Petitioner’s Motion for Clarification, (Doc. 21), and Motion for Extension, (Doc. 24), are denied as MOOT.



KEVIN R. SWEAZEA
UNITED STATES MAGISTRATE JUDGE